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10/828,587	04/21/2004	Curtis G. Wong	MS141394.02 / MSFTP122USA	5559

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AMIN, TUROCY & CALVIN, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

EXAMINER
MIZRAHI, DIANE D

ART UNIT	PAPER NUMBER
2165	

NOTIFICATION DATE	DELIVERY MODE
01/23/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com
hholmes@thepatentattorneys.com
lpasterchek@thepatentattorneys.com

	Application No.	Applicant(s)
	10/828,587	WONG ET AL.
Office Action Summary	Examiner	Art Unit	
	DIANE MIZRAHI	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 October 2008</u>.
2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>58-77</u> is/are pending in the application.
  4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>58-77</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>4-21-04</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  a)☐ All   b)☐ Some * c)☐ None of:
  1.☐ Certified copies of the priority documents have been received.
  2.☐ Certified copies of the priority documents have been received in Application No. _____.
  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20090102

DETAILED ACTION

This action is responsive to the Amendment filed October 10, 2008

Claims 58-77 are pending in this Application.   Claims 1-57 have been canceled.

All previous presented rejections of the claims are hereby withdrawn as to being

moot. See new office action below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine,
manufacture, or composition of matter any new and useful improvement thereof,
may obtain a patent therefor, subject to the conditions and requirements of this
title.

Claims 58-77 are rejected under 35 U.S.C. 101 because the claimed invention is

directed non-statutory subject matter.

In regards to Claims 58-68 and 77:

Claims 58-68 and 77 recites an **"system "** comprising a **"image and audio**

communications systems, decoding system"   for acquiring information.

The Examiner notes the disclosure of the present invention expressly states "signal

analyzing system (CSAS) 104. The CSAS 104 decodes the signal and generates key

search terms which are employed by a search engine 108 to perform a search for

URLs, websites, or other sources of content related to the information contained within

the signal 102. The search engine 108 conducts the search and outputs results (e.g.,

URL data, websites, databases) to be displayed to a user via a display/storage system

112. The CSAS 104 may employ any suitable system or systems for key word/term

extraction."

see Specification --, Page 6, lines 29-30 and page 7, lines 1-26.

The Examiner interprets **all functions** described herein **may be performed** in either

hardware or **software**. Thus, for purposes of examination, the examiner interprets the recited

"determining unit and the recited **"system"** to comprise only computer software.

Accordingly, the "system " recited in Claims 58-68 and 77 are software per se.

Computer software is not a process, a machine, a manufacture or a composition

of matter.

Accordingly, Claims 58-68 and 77 fails to recite statutory subject matter, as

defined in 35 U.S.C. 101.

Claim 77 is rejected under 35 U.S.C. 101, because the claimed invention is

directed to non-statutory subject matter.

Claim 77   recites, a "*system*", "*means for*" performing various functions, such as

"*defining, providing, handling, and creating*..." However, nothing in the disclosure of the

present invention indicates that the recited "*system*" and/or the recited "*mean for*"

necessarily includes hardware. Thus, for purposes of examination, the examiner will

assume that the recited "*system*", "*means for*" performing various functions, comprise

only computer software. Accordingly, the "*system*" recited in Claim 77 is software *per se*.

Computer software is not a process, a machine, a manufacture or a composition of matter. Accordingly, Claim 77 fails to recite statutory subject matter, as defined in 35 U.S.C. 101.

Claims 69-76 are rejected under 35 U.S.C. 101, because the claimed invention is directed to non-statutory subject matter.

In regards to Claims 69-76:

Claims 69-76 recites, a "the method for acquiring information outputting image and audio data ... ". However, nothing in the disclosure of the present invention indicates that the recited "the method for acquiring information outputting image and audio data ... " necessarily includes hardware. Accordingly, the "*method* " recited in Claims 69-76 are software *per se*.

Computer software is not a process, a machine, a manufacture or a composition of matter. Accordingly, Claims 69-76 fails to recite statutory subject matter, as defined in 35 U.S.C. 101.

In the interest of compact prosecution, the application is further examined against

the prior art, as stated below, upon the assumption that the applicants may overcome

the above stated rejections under 35 U.S.C. 101.

Claim Rejections - 35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or
described as set forth in section 102 of this title, if the differences between the
subject matter sought to be patented and the prior art are such that the subject
matter as a whole would have been obvious at the time the invention was made to a
person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
      obviousness or nonobviousness.

Joint Inventors

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 58-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Itzhak Wilf (U.S. Publication No. 20010049826 and Wilf hereinafter) in view of Brian

J. Cragun et al. (U.S. Patent# 5481296 and Cragun hereinafter).

Regarding Claim 58, Wilf teaches a system that acquires information,

comprising:

an image communications system which outputs a communication broadcasting

image data (i.e. viewer can watch the television broadcast signal in the Picture-In-

Picture) [0015] (i.e. digitally encoded video broadcasts (e.g. MPEG), or digital

information related to computer-executed applications . . . converted into a sequence

of images and the associated sound track in order to enable analysis of at least one

predetermined attribute of the video) [0042];

an audio communications system (i.e. audio characteristic data is automatically

computed from the audio track by audio analysis engines 330. Such engines may

include: segmentation to silence, speech, music and effects 331; feature extraction for

audio classification 332; and recognition of pre) [0048] which outputs a communication

broadcasting (i.e. digitally encoded video broadcasts (e.g. MPEG), or digital information

related to computer-executed applications . . . converted into a sequence of images

and the associated sound track in order to enable analysis of at least one

predetermined attribute of the video) [0042] audio data [0048];

a closed captioning system that outputs (i.e. video images, automatically

transcribed from dialogs and decoded from closed caption) [0079]closed captioning

data (i.e. Certain video streams carry video meta-data such as closed captions) [0049];

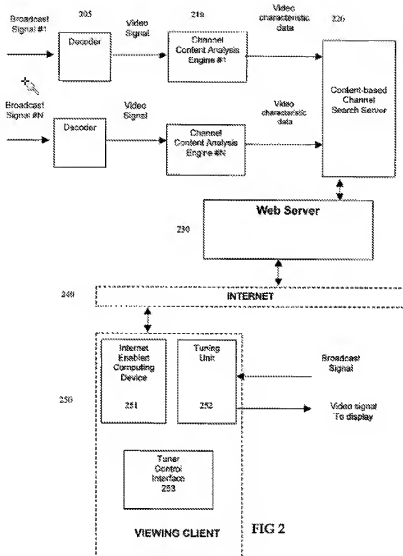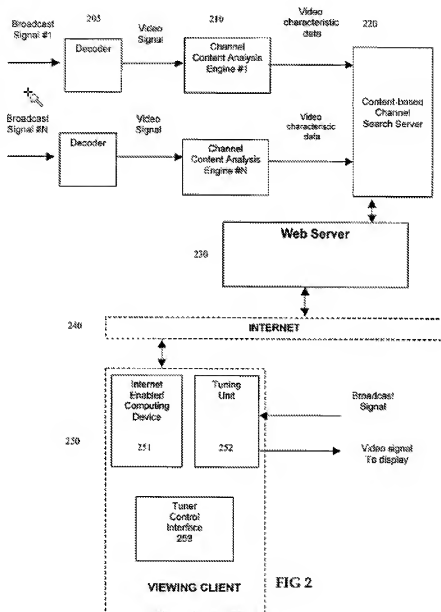a decoding system (i.e. Figure 2, item 205) see below:

FIG 2

that decodes (i.e. broadcast signal and decodes the stream or signal in a

decoder unit 205) [0042] the image, audio and closed captioning data and converts the

data to a format suitable for use by a keyword generating system (i. e.Figures 5.1 and

5.2) ;

a search component (see Figure 4, whole figure) infra:

FIG 2

item that utilizes identified from the keyword generating system to retrieve related results (i.e. sports, jazz music, breaking news, etc) (Figure 5.1) ;

and an output component (i.e. TV screen) [0004] that displays the results from the search component concurrently with displaying an output corresponding to the broadcasting image, audio and closed captioning data (i.e. Figures 6 and 7).

Wilf does not teach search terms.

Cragun teaches search terms (i.e. search words) (Col 8, lines 45-46).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Wilf with the teachings of Cragun to include the claimed, "search terms " with the motivation to provide for an enhanced viewing of video information, and to increase the ability of the user to control content (Cragun, Col 1, lines 61-65).

Regarding Claims 59, 69 and 77, Wilf teaches broadcasting image, audio and closed captioning data (i. e.Figures 5.1 and 5.2).

Wilf does not teach search terms.

Cragun teaches search terms (i.e. search words) (Col 8, lines 45-46).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Wilf with the teachings of Cragun to include the claimed, "search terms " with the motivation to provide for an enhanced viewing of video information, and to increase the ability of the user to control content (Cragun, Col 1, lines 61-65).

Regarding Claim 60, Wilf decodes the broadcasting image, audio and closed captioning data (i. e.Figures 5.1 and 5.2) and the decoded data (i. e.Figures 5.1 and 5.2).

Wilf does not teach search terms.

Cragun teaches search terms (i.e. search words) (Col 8, lines 45-46).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Wilf with the teachings of Cragun to include the claimed, "search terms " with the motivation to provide for an enhanced viewing of video information, and to increase the ability of the user to control content (Cragun, Col 1, lines 61-65).

Regarding Claim 61, Wilf does not expressly teach the decoded data is formatted as ASCII text.

Cragun teaches ASCII text (i.e. data format X0001D780 or MN Twins Baseball News or MTWHF) (Figures 4A and 4B).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Wilf with the teachings of Cragun to include the claimed, "ASCII text" with the motivation to provide for an enhanced viewing of video information, and to increase the ability of the user to control content (Cragun, Col 1, lines 61-65).

Regarding Claim 62, Wilf decodes the broadcasting image, audio and closed captioning data via an ATI All-in-wonder tuner system (i.e. ATI) [0039].

Wilf does not teach search terms.

Cragun teaches search terms (i.e. search words) (Col 8, lines 45-46).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Wilf with the teachings of Cragun to include the claimed, "search terms " with the motivation to provide for an enhanced viewing of video information, and to increase the ability of the user to control content (Cragun, Col 1, lines 61-65).

Regarding Claim 63, Wilf teaches the output component sends the results continually to a user and plays the results while additional results are being sent (i.e. Server is continuously updated from new search results on all channels that are in the list of processed channels) [0105].

Regarding Claim 64, Wilf the output component stores the results and the broadcasting image, audio and closed captioning data (i.e. For pre-recorded programs, such as movies, reviews and other, the finished program is available in advance for video indexing. In the case that the content-provider has access to the source material or to the audio-visual characteristic data, the characteristic data can be placed on the server as before and compared with user's profile or queries to generate a personal schedule. The schedule is edited and post-processed to guarantee channel switch before the actual event of interest, to minimize short-duration interruption) [0094].

Regarding Claim 65, Wilf teaches comprise uniform resource locators (URLs) [0011] [0102].

Regarding Claim 66, Wilf teaches a storage component that stores a [0078] predetermined number of results and deletes aged results as new results (i.e. new search results on all channels that are in the list of processed channels) [0105] are obtained (i.e. For pre-recorded programs, such as movies, reviews and other, the finished program is available in advance for video indexing. In the case that the content-

provider has access to the source material or to the audio-visual characteristic data, the

characteristic data can be placed on the server as before and compared with user's

profile or queries to generate a personal schedule. The schedule is edited and post-

processed to guarantee channel switch before the actual event of interest, to minimize

short-duration interruption) [0094].

   Regarding Claim 67, Wilf teaches comprising an information presentation

component that displays information associated with the results, the results are

selectable such that a selected result causes information corresponding to the result to

be displayed (i.e. TV channels) [0059] (i.e. new search results on all channels that are

in the list of processed channels) [0105].

   Regarding Claim 68, Wilf   teaches the broadcasting image, audio and closed

captioning data, the results, and the information associated with the results are

presented concurrently (i.e. . Each process of in the server is doing the query from the

data=base and send the result to its matching process on the client side (The computer

desktop on the other side of the Internet) [0105].

   Regarding Claim 70, Wilf teaches selecting a result to obtain information

associated with the result (i.e. viewing the multi-channel video/television) [0001].

Regarding Claim 71, Wilf teaches the information associated with the result is a webpage (i.e. Web-TV set-top box that can receive commands remotely to change its URL and TV channel that are on display: Either a full screen or side by side as in the Picture in Picture feature of TV can be selected) [0102].

Regarding Claim 72, Wilf teaches presenting the results and the broadcasting image, audio and closed captioning data upon disparate display devices (i.e. set remotely a device similar to Web-TV set-top box that can receive commands remotely to change its URL and TV channel that are on display) [0102] (i.e. see personal computer, television, Figure 1).

Regarding Claim 73, Wilf teaches filtering the results to focus a search (i.e. data are stored as queries and compared every pre-defined time interval with the video and audio characteristic data, corresponding to that interval. A query processor 440 receives a user query, decomposes the query into atomic queries (if necessary) and runs each against stored characteristic data, using the video search engine 420, combining search results and deciding on a match between a query standing for a portion of the user profile and the video content of a specific channel) [0064].

Regarding Claim 74, Wilf teaches presenting a predetermined number of results (i.e. data are stored as queries and compared every pre-defined time interval with the video and audio characteristic data, corresponding to that interval. A query processor

440 receives a user query, decomposes the query into atomic queries (if necessary) and runs each against stored characteristic data, using the video search engine 420, combining search results and deciding on a match between a query standing for a portion of the user profile and the video content of a specific channel) [0064].

Regarding Claim 75, Wilf teaches comprising deleting (Figure 10a-10b) aged results as new results are obtained [0063].

Regarding Claim 76, Wilf teaches comprising sending the results continually to a user and playing the results while the results are being sent (i.e. alert user on event) (Figure 9, whole figures).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane D. Mizrahi whose telephone number is 571-272-4079. The examiner can normally be reached on Monday-Thursday (9:30 - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 305-3900 for After Final communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.   Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.qov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

/Diane Mizrahi/

Diane.Mizrahi@USPTO.gov
Primary Patent Examiner

January 5, 2009